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December 21, 2001

Magalie Roman Salas, Secretary
Federal Communications Commission
Washington, DC 20554

**Re: Report of Oral *Ex Parte* Communications
ET Docket No. 00-221
Reallocation of the 216-217 MHz Band**

Dear Ms. Salas:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to report that on **December 20, 2001**, representing the **Hearing Industries Association** ("HIA"), I had a telephone conversation with Monica Desai, Legal Advisor in the **Office of Commissioner Martin**, and Bryan Tramont, Legal Advisor in the **Office of Commissioner Abernathy**. I spoke again by telephone with Ms. Desai on **December 21, 2001**. The subject matter of these conversations was the treatment of the 216-217 MHz band as proposed in ET Docket No. 00-21.

I indicated that while HIA does not favor any operations in the 216-217 MHz band that would threaten the universal and reliable functioning of assistive listening devices, HIA continues to agree, as I stated in my *ex parte* letter of December 19, 2001, that the likelihood of interference to ALDs is small if existing systems operating in the 216-217 MHz band are grandfathered.

There is no distinction between government and non-government operations in terms of their ability to cause interference to ALDs. However, the nature of government operations that are consistent with Note US210 to the Table of Allocations gives them a lower probability of causing such interference than new private operations. Operations pursuant to the existing Note US274 have also not been a problem in the past; but expanded governmental use, particularly with high power or in airborne applications directed to ground receivers, has the potential to be seriously harmful and should be restricted to avoid such harm.

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It is critical that the Commission recognize that users of ALDs are unsophisticated in terms of being able to identify sources of radio interference (the overwhelming majority are children); do not have the equipment to identify sources of interference; and must have full-time, reliable, real-time, ubiquitous use of their systems. Assuming that ALD users understand the interference problem in the first place, which is not a valid assumption especially when the victim of interference is a child, they still cannot wait for an interference problem to be found and cured, because any sound not heard is a sound forever lost.

Therefore, no new operations should be permitted in the 216-217 MHz band that might lead to any significant new non-LPRS activity. Making distinctions based on who conducts new operations or based on the location where they are conducted (except in truly remote unpopulated areas) is risky, because there is simply no practical, real-life way to ensure that any co-channel radio signal will not adversely affect ALDs; and it would be wrong to impair this immensely valuable, growing, and socially desirable service.

Representatives of the Alexander Graham Bell Association for the Deaf and Hard of Hearing and Self Help for Hard of Hearing People have authorized HIA to state that they concur with the position taken in this letter.

Respectfully submitted,

/s/ Peter Tannenwald

Peter Tannenwald
Counsel for the Hearing
Industries Association

cc: Peter A. Tenhula, Esq. (Ofc. of Chmn. Powell)
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